

## **EXHIBIT 4**

DECLARATION OF J. CHRISTOPHER CARRAWAY IN SUPPORT  
OF DEFENDANT MICROSOFT'S MOTION TO STAY PROCEEDINGS PENDING  
COMPLETION OF THE REEXAMINATION OF THE PATENTS-IN-SUIT

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

Anascape, Ltd.,

Plaintiff,

v.

Microsoft Corp., and  
Nintendo of America, Inc.,

Defendants.

Civil Action No. 9:06-cv-158-RC

JURY TRIAL REQUESTED

**ANASCAPE, LTD.'S DISCLOSURE OF ASSERTED CLAIMS  
AND PRELIMINARY INFRINGEMENT CONTENTIONS**

In compliance with the Scheduling Order, Patent Rule 3-1, and Patent Rule 3-2, Plaintiff Anascape, Ltd. ("Anascape") submits its Disclosure of Asserted Claims and Preliminary Infringement Contentions against Defendants Microsoft Corp. ("Microsoft") and Nintendo of America, Inc. ("Nintendo") and an accompanying document production.

**I. Disclosure of Asserted Claims and Preliminary Infringement Contentions**

**Patent Rule 3-1(a)-(c)**

Microsoft's Xbox Controllers and Xbox Controllers S and accompanying video game systems infringe claims 5-6 and 11 of U.S. Patent No. 5,999,084, claims 1-18 of U.S. Patent No. 6,102,802, claim 7 of U.S. Patent No. 6,135,886, claims 11, 13, and 16 of U.S. Patent No. 6,208,271, claims 1, 5-6, and 12-20 of U.S. Patent No. 6,222,525, claims 1, 3, 6-8, 11-12, 16-19, 23-25, 28-37, 40-53, and 66-73 of U.S. Patent No. 6,343,991, claims 1-18, 34-44, 56-62, and 64-65 of U.S. Patent No. 6,344,791, claims 32-37 of U.S. Patent No. 6,347,997, claims 1-5 and 7-8 of U.S. Patent No. 6,351,205, claims 5-6 and 18-19 of U.S. Patent No. 6,400,303, claims 1-2, 4-

5, 7-9, 11, 13-15, 17-18, 20-21, and 23-24 of U.S. Patent No. 6,563,415, and claims 1-15, 19-20, 22-23, 26-29, and 31-33 of U.S. Patent No. 6,906,700. Charts identifying specifically where each element of each asserted claim is found within each accused instrumentality are attached as Exhibits A-K and R.

Microsoft's Xbox 360 Wireless Controllers and Xbox 360 Controllers and accompanying video game systems infringe claims 12-15, 19-20, 22-23, and 32-33 of U.S. Patent No. 6,906,700. A chart identifying specifically where each element of each asserted claim is found within each accused instrumentality is attached as Exhibit L.

Nintendo's GAMECUBE Wavebird Wireless Controllers and accompanying video game systems infringe claims 5, 12-17, and 19-20 of U.S. Patent No. 6,222,525, claims 34, 36-38, 40, 44-47, 49, and 64 of U.S. Patent No. 6,344,791, claims 7-8 of U.S. Patent No. 6,351,205, claims 4, 7-8, and 13 of U.S. Patent No. 6,563,415, and claim 14 and 16-23 of U.S. Patent No. 6,906,700. Charts identifying specifically where each element of each asserted claim is found within each accused instrumentality are attached as Exhibits M-Q.

Nintendo's GAMECUBE Controllers and accompanying video game systems infringe claims 5, 12-17, and 19-20 of U.S. Patent No. 6,222,525, claims 34-38, 40, 44-53, and 64 of U.S. Patent No. 6,344,791, claims 7-8 of U.S. Patent No. 6,351,205, claims 4, 7-8, and 13 of U.S. Patent No. 6,563,415, and claims 14, 16-23, 26-27, and 31-33 of U.S. Patent No. 6,906,700. Charts identifying specifically where each element of each asserted claim is found within each accused instrumentality are attached as Exhibits M-Q.

Nintendo's Wii Remote Controller and Nunchuk and accompanying video game systems infringe claim 19 of U.S. Patent No. 6,906,700. A chart identifying specifically where each

element of each asserted claim is found within each accused instrumentality is attached as Exhibit S.

Nintendo's Wii Classic Controller and Remote Controller and accompanying video game systems infringe claims 5, 12-17, and 19-20 of U.S. Patent No. 6,222,525, claims 34-38, 40, 44-52, and 64 of U.S. Patent No. 6,344,791, claims 7-8 of U.S. Patent No. 6,351,205, claims 4, 7-8, and 13 of U.S. Patent No. 6,563,415, and claims 14, 19-23, 26-27, and 31 of U.S. Patent No. 6,906,700. Charts identifying specifically where each element of each asserted claim is found within each accused instrumentality are attached as Exhibits T-X.

*Patent Rule 3-1(d)*

Each asserted claim is literally infringed by the Defendants' accused products as indicated by the infringement claim charts attached hereto. In the alternative, any asserted claim not found to be literally infringed is infringed under the doctrine of equivalents.

*Patent Rule 3-1(e)*

U.S. Patent No. 5,999,084 is entitled to a priority date of June 29, 1998.

U.S. Patent No. 6,102,802 is entitled to a priority date of October 1, 1997.

U.S. Patent No. 6,135,886 is entitled to a priority date of October 1, 1997.

U.S. Patent No. 6,208,271 is entitled to a priority date of September 4, 1998.

U.S. Patent No. 6,222,525 is entitled to a priority date of March 5, 1992.

U.S. Patent No. 6,343,991 is entitled to a priority date of October 1, 1997.

U.S. Patent No. 6,344,791 is entitled to a priority date of July 5, 1996.

U.S. Patent No. 6,347,997 is entitled to a priority date of July 5, 1996.

U.S. Patent No. 6,351,205 is entitled to a priority date of July 5, 1996.

U.S. Patent No. 6,400,303 is entitled to a priority date of September 4, 1998.

U.S. Patent No, 6,563,415 is entitled to a priority date of July 5, 1996.

U.S. Patent No. 6,906,700 is entitled to a priority date of March 5, 1992.

*Patent Rule 3-1(f)*

Various controllers developed by Brad Armstrong, Global Devices, and Extreme 6DOF Controllers, including the Global 3-D controller and various prototypes that will be made available for inspection at an agreed-upon time and place may practice claims 5-6 and 11 of U.S. Patent No. 5,999,084, claims 1-18 of U.S. Patent No. 6,102,802, claim 7 of U.S. Patent No. 6,135,886, claims 11, 13, and 16 of U.S. Patent No. 6,208,271, claims 1, 5-6, and 12-20 of U.S. Patent No. 6,222,525, claims 1, 3, 6-8, 11-12, 16-19, 23-25, 28-37, 40-53, and 66-73 of U.S. Patent No. 6,343,991, claims 1-18, 34-44, 56-62, and 64-65 of U.S. Patent No. 6,344,791, claims 32-37 of U.S. Patent No. 6,347,997, claims 1-5 and 7-8 of U.S. Patent No. 6,351,205, claims 5-6 and 18-19 of U.S. Patent No. 6,400,303, claims 1-2, 4-5, 7-9, 11, 13-15, 17-18, 20-21, and 23-24 of U.S. Patent No. 6,563,415, and claims 1-15, 19-20, 22-23, 26-29, and 31-33 of U.S. Patent No. 6,906,700.

**II. Document Production Accompanying Patent Rule 3-1 Disclosures**

*Patent Rule 3-2(a)*

The documents corresponding to Patent Rule 3-2(a) may be found within the ranges ANS0004666-4736, ANS0007828-7831, ANS0007846-7854, ANS7859-7873, ANS0008091-8133, ANS0026177-6180, ANS0027756-803, and ANS0039867-41791.

*Patent Rule 3-2(b)*

The documents corresponding to Patent Rule 3-2(b) may be found within the ranges ANS0026177-6180, ANS0027756-803, and ANS0039867-41791.

Patent Rule 3-2(c)

The documents corresponding to Patent Rule 3-2(c) are found at ANS000404-1942 and ANS063797-68021.

Discovery is ongoing in this matter, and Anascape reserves the right to supplement its contentions.

DATED: December 28, 2006.

Respectfully submitted,

**McKOOL SMITH, P.C.**

/s/ Luke F. McLeroy

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**ATTORNEYS FOR PLAINTIFF  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served on counsel of record via Federal Express on this 28th day of December, 2006.

/s/ Luke F. McLeroy

Luke F. McLeroy